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CITY OF NEWTON, MASSACHUSETTS

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David B. Cohen
Mayor

Public Hearing Date:	June 10, 2008
Land Use Action Date:	August 12, 2008
Board of Aldermen Action Date:	September 2, 2008
90-Day Expiration Date:	September 8, 2008

TO: Board of Aldermen

FROM: Michael Kruse, Director of Planning and Development
Candace Havens, Chief Planner
Alexandra Ananth, Planner

SUBJECT: **Petition #178-08 THOMAS J. MOREAU & NICOLA POSER** petition for a SPECIAL PERMIT/SITE PLAN APPROVAL and EXTENSION OF A NONCONFORMING STRUCTURE to construct a one-story addition in the front setback of an existing single-family dwelling; to locate a parking stall less than five feet from the street; and to waive parking stall dimensions at 9 PARKVIEW AVENUE, Ward 2, NEWTONVILLE, on land known as Sec 22, Blk 80, Lot 4, containing approx. 3,548 sf of land in a district zoned MULTI RESIDENCE 1.

CC: Mayor David B. Cohen

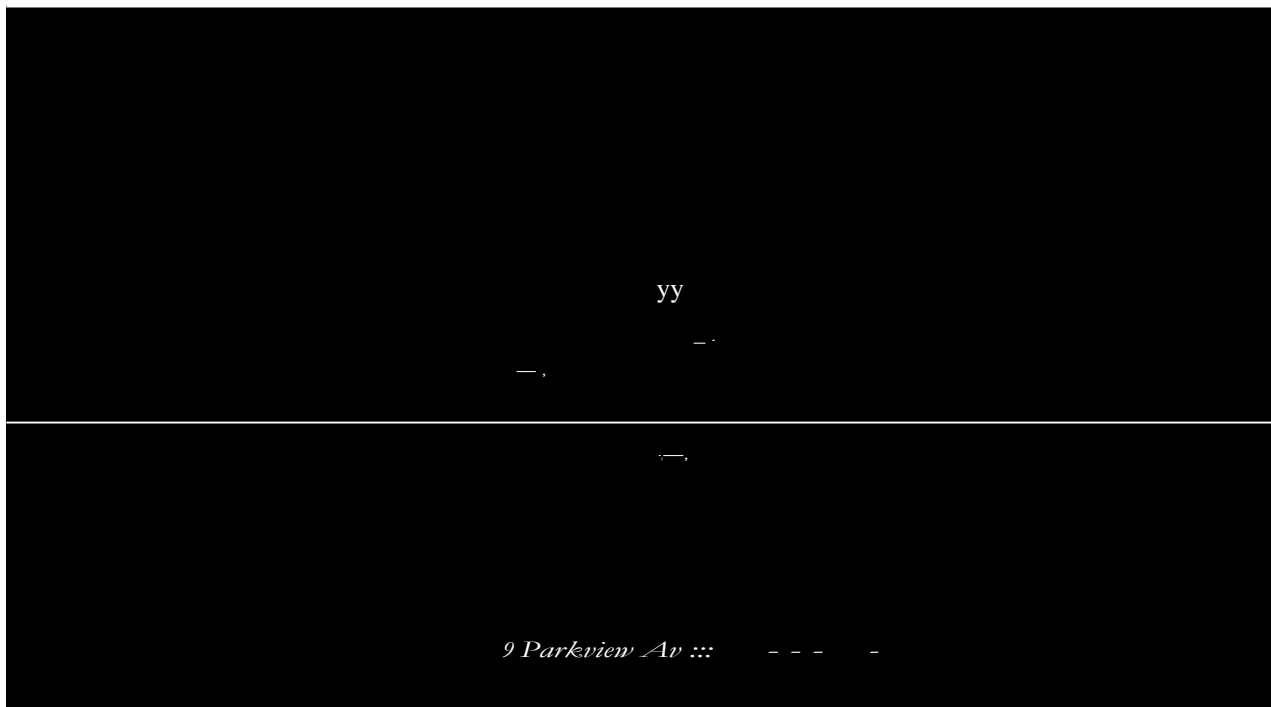
The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis, which may be useful in the special permit decision-making process of the Board of Aldermen. The Planning Department's **intention** is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will consider in its discussion at a subsequent working session.

EXECUTIVE SUMMARY

The subject property consists of a 3,548 square foot nonconforming lot improved with a PA-story single-family structure that is nonconforming with regards to the front setback. The petitioners are proposing to construct a one-story 3' x 17' addition to the front of the house further encroaching into the front setback for which they need a special permit. In addition, the petitioners are proposing to add a new 4' x 8' platform and stairs at the front entry of the house also in the front setback and for which they need a special permit. The petitioners are also proposing 10' x 23' addition to the rear of the house. Because of a jog in the rear property line, a small portion of the rear addition is

within the required 15 ft. setback and the petitioners will need to seek a variance from the Zoning Board of Appeals for this rear encroachment. Finally, due to the proposed additions, the petitioners would exceed allowable lot coverage ratios and will need to seek a variance for this as well.

During the development review process the Planning Department expressed concerns regarding the proposed encroachments of an already nonconforming house on a very small lot. The Planning Department encouraged the petitioners to reduce the size of the rear addition in order to avoid encroaching into the rear setback and avoid the necessity of a variance. The Planning Department also recommended that the petitioners remove the nonfunctional garage (labeled as "existing shed" on Plan of Land) at the rear of their property in order to minimize lot coverage ratios on an already tight site and to avoid the need for an additional variance. The petitioners decided to move forward with their request despite concerns raised of maxing out the site.



I. SIGNIFICANT ISSUES FOR CONSIDERATION

In reviewing this petition, the Board of Aldermen should consider whether:

- the proposed additions are more detrimental to the neighborhood than the existing structure;
- the proposed front addition and platform at the front of the house will adversely impact on abutters, or the streetscape, or neighborhood safety;
- the proposed additions and resulting excess lot coverage will have a negative impact on neighborhood character; and
- the proposed waivers of dimensional controls will set a precedent in this predominately single- and two-family neighborhood or in the City of Newton.

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Site Characteristics

This existing single-family dwelling is located on Parkview Avenue, a one-way street along the west side of Cabot Park and two houses north of the Cabot Elementary School. According to the petitioners, the lot was created in 1924 and is considered an "old" lot. The lot is nonconforming with respect to lot size and frontage. The property consists of an owner-occupied PA-story single-family dwelling with a nonfunctional detached garage located at the northwest corner of the site. The house is a PA-story Cape style house with vinyl siding. The driveway is on the north side of the lot along the lot line and is quite narrow at 7.8 feet wide, but allows for two exterior tandem parking stalls. The site is relatively level.

B. Neighborhood

The subject site is located in a Multi-Residence 2 District. The character of the neighborhood is a mix of single- and two-family homes, most modest in scale. Many of the lots are nonconforming with respect to size, although the petitioners' lot is among the smallest in the neighborhood. Cabot Park is across the street from 9 Parkview Avenue and the Cabot Elementary School is located a few doors south of the subject property. There is also a large independent living facility (Cabot Park Village) that runs between Norwood Avenue and Newtonville Avenue along the edge of Cabot Park.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The site has been used as a single-family residence and the petitioners are not proposing to change the use in any way, but are proposing to expand the existing single-family structure.

B. Building and Site Design

The petitioners have stated that the proposed additions are part of a larger remodel including a new roof, windows, and siding. The additions are in keeping with the style of the existing structure including: a one-story 3' x 17' projection at the front of the house to add a window seat to the den, a 4' x 8' landing plus stair at the front entry, and a PA-story, 10' x 22.5' addition to the rear for a mud room with 1/2 bath and new bath above. The petitioners are proposing to reduce the size of the existing garage in order to expand the rear of the house.

Although the Planning Department has no concerns with the size or style of the proposed additions per se, the department is concerned about the precedents these special permit and variance requests would set. In the development review meetings with the petitioners, the Planning Department suggested jogging the rear addition, eliminating the portion of the addition that projects into the rear setback altogether, or reducing the depth of the entire addition by 1.6 feet. *Although FAR (Floor Area Ratio) does not apply in this case, the Planning Department notes the neighborhood average is 0.35. The existing residence at 9 Parkview has a FAR*

of *approximately 0.39 and would exceed 0.5 with the proposed additions*. The Planning Department also notes that if the house were demolished and rebuilt, an FAR of 0.4 would apply.

The Planning Department is concerned that further encroaching into the front setback and exceeding lot coverage ratios may set a precedent in this densely settled neighborhood. The Planning Department is also concerned that the proposed expansion at the rear of the existing single-family dwelling is only 4 feet from the portion of the garage to remain and a potential fire safety issue. The Planning Department has suggested the removal of the entire garage altogether in order to free up open space and possibly avoid the need for a variance to exceed lot coverage, but the petitioners have stated that they would like to retain a portion of the garage as storage space.

C. Parking and Circulation

The petitioners are not proposing any changes to the parking or circulation of the site except to reduce the size of the existing garage by approximately half in order to allow for the proposed rear addition. The current garage is nonfunctional due to its width, and the Planning Department has suggested the removal of the entire garage, as the petitioners currently park their cars in tandem in the driveway, located in the side setback.

D. Landscape Screening, Lighting, and Signage

The petitioners submitted a landscape plan showing mostly existing planting to remain. It appears one small tree at the southwest corner of the lot will be removed and replaced with a bush that has not been specified. ***The Tree Preservation Ordinance does not apply to this property, as lots that are occupied and used primarily as a dwelling for up to four families are exempt from the ordinance provisions.*** A row of shrubs helps to screens the petitioners' cars from the immediate abutter.

IV. COMPREHENSIVE PLAN

The November 2007 *Newton Comprehensive Plan* seeks to guide development to reflect the character held or sought by existing residential neighborhoods, protecting the qualities "*of that which exists.*" Although the Planning Department is sympathetic to the petitioners desire to expand and improve their property, the Planning Department does not believe that expanding the existing structure into setbacks that require special permits and variances is consistent with the existing fabric of this densely settled neighborhood. The Planning Department maintains that density and other dimensional controls exist to prevent over-development of land and to ensure there will be no adverse affects on the immediate neighborhood.

V. TECHNICAL REVIEW

A. Technical Considerations, Sec. 30-15. The subject property is nonconforming with regard to lot area, frontage, and front setback. The petitioners are proposing to extend further into the front setback by two feet reducing the setback to 18.2 ft. where 25 ft. is required. The petitioners are also seeking to exceed allowable lot coverage for which they will need a variance. The attached Zoning Review Memorandum includes a table illustrating how the project compares with the dimensional control requirements of the City's Zoning Ordinance.

B. Parking Requirements (Section 30-19). As noted earlier, the petitioners are not altering the existing parking or circulation in any way and do not need exceptions to the parking requirements.

C. Other Reviews

The Associate City Engineer did not review this petition for special permit as the increase in impervious surface area is under their review threshold. And, the Fire Department does not typically review changes to parcels that contain single-family dwellings.

VI. SUMMARY OF ZONING RELIEFS SOUGHT

Based on the Zoning Review Memorandum dated April 28, 2008 (*SEE "ATTACHMENT A"*), the petitioners are seeking relief from or approval through:

- Section 30-21(b) and Section 30-15, Table 1 for alterations to a nonconforming structure and exceptions to the front setback for the proposed addition to the front of the existing single-family dwelling including a platform at the new entry;
- Section 30-23 for approval of site plan; and
- Section 30-24 for a special permit approving project and related waivers.

As noted earlier, the applicant will also need to seek variances from the Zoning Board of Appeals for the proposed addition in the rear setback and to exceed the maximum building lot coverage. The Zoning Review Memorandum also cited parking-related waivers, which the petitioners are no longer proposing.

VII. SUMMARY OF PETITIONER RESPONSIBILITIES

At the June 10 public hearing, the petitioners should plan to respond to all issues raised in this memorandum prepared by the Planning and Development Department.

ATTACHMENTS:

ATTACHMENT A: Zoning Review Memorandum, April 28, 2008

ATTACHMENT B: Land Use Map

ATTACHMENT C: Zoning Map

ATTACHMENT D: Plan of Land, dated April 29, 2008, with proposed changes shown

Zoning Review Memorandum

To: Thomas J. Moreau, owner

From: Candace Havens, Chief Planner
Alexandra Ananth, Planner

Date: April 28, 2008

Cc: John Lojek, Commissioner of Inspectional Services
Michael Kruse, Director of Planning and Development
Ouida Young, Associate City Solicitor

Re: Zoning review of proposed extension of a nonconforming structure at 9 Parkview Avenue

Applicant: Jamie Haywood

Site: 9 Parkview Avenue	SBL: Section 22, Block 080, Lot 04
Zoning: MR 1	Lot Area: 3,548 sq. ft.
Current use: Single-family residence	Prop. use: Single-family residence

The following review is based on statements and plans prepared and submitted to the Planning Department by the applicant and/or their agent(s).

Background:

According to the applicant, the current lot was created in 1924 (old lot) and is located in a Multi- Residence 1 District. The lot is nonconforming with respect to lot size and frontage. The property consists of an owner-occupied PA-story single-family house with a nonfunctional detached garage located at the northeast corner of the lot. Both structures are approximately circa 1930. The existing single-family structure is also nonconforming with regards to the front setback.

A. Dimensional Controls including Parking and Loading Requirements

The table below depicts how the project compares with the requirements of Section 30-15, Table 1 of the Zoning Ordinance:

Table 1, Density and Dimensional Controls in Residence Districts and for Residential Use

MR1 (Old Lot)	Required	Existing	Proposed	Action
Lot Area	7,000 sq. ft.	3,548 sq. ft.	3,548 sq. ft.	NC
Frontage	70 ft	50.14 ft.	50.14 ft.	NC
Setbacks				
Front	25 ft.	20.2 ft.	18.2 ft.	SPermit
Side	7.5 ft.	7.8 ft.	7.8 ft.	
Rear	15 ft.	23.4 ft.	13.4 ft.	Variance

Total Floor Area Ratio	NA	NA	NA	
Building Height	30 ft.	Conforms	18.71 ft. for proposed addition	
Max. Number of Stories	2.5	1 1/2	1 1/2	
Max. building lot coverage	30%	26.8%	31.2%	Variance
Min. amount of open space	50%	62.8%	54.8%	

Table 2, Parking Requirements for Parking Facilities Containing Five Stalls or Less

Required	Existing	Proposed	Action
1 parking stall per dwelling unit may be located within required setback and sideline distances. No parking stall be within 5 ft. of the street setback	2 stalls located within side setback	2 stalls located within side setback, one of which is also located less than 5 ft. from the street	SP
Minimum dimensions of parking stalls	9' x 19'	2 nonconforming stalls	SP
Entrance and exit drives	12 ft. min.	7.8 ft.	9.3 ft.
			NA

The applicant is proposing a 1 1/2-story 10'x23' addition to the rear of the house. Because of a jog in the rear property line, a small portion of the addition is within the required 15 ft. setback. As the Board of Aldermen is not authorized to allow for the creation of a new non-conformity, the applicant will need to seek a Variance from the Zoning Board of Appeals for this encroachment.

The second addition consists of a 1-story 3'x17' addition at the front of the house in the front setback. As the front setback is currently nonconforming the applicant may seek a special permit from the Board to further extend the nonconformity pursuant to Section 30-21(b) and for exceptions to 30-15, Table 1 requirements. In addition, the applicant is proposing to add a new 4'x8' platform and stairs at the front entry of house. The applicant may seek a special permit from the Board pursuant to 30-21(b) and for exceptions to 30-15, Table 1 requirements for the platform in the front setback.

The applicant is proposing to reduce the size of the existing garage at the rear of the property and maintain the remaining structure as a storage shed. The applicant has received approval from the Newton Historical Commission for the proposed demolition. The Planning Department notes that as proposed the separation between the shed and the proposed rear addition is approximately 4 ft. The Planning Department assumes the applicant will maintain proper fire separation per state building code.

The applicant is proposing to exceed allowable lot coverage with the expansion of the house. As the current lot coverage currently complies with requirements the

applicant will need to seek a Variance from the Zoning Board of Appeals for proposed conditions.

The applicant is proposing to widen the driveway from 7.8 ft. to 9.3 ft. and will be decreasing a nonconformity as to driveway width. Although the applicant has not shown dimensioned parking stalls on plans, Planning Department staff observed cars parked in tandem in the existing driveway just east of the house and within the side setback. It appears that the purpose of widening the driveway at the front of the house is to fit a parking stall in the front setback and the applicant will need to seek a waiver from the Board of Aldermen pursuant to 30-19(m) and 30-19(g)(1) to locate a parking stall within five (5) ft. of the street and from 30-19(g)(2) for waivers from the minimum width required for both parking stalls. Prior to filing for a special permit, the applicant should dimension all proposed parking stalls on plans.

B. Summary of Zoning Relief Needed

The applicant will need to seek relief from or approvals through the following sections of the Newton Zoning Ordinances:

- > ***Section 30-21(b) and Section 30-15, Table 1 - for alterations to a non-conforming structure and exceptions to the front setback for the proposed addition to the front of the house including a platform at the new entry;***
- > ***Section 30-19(m), 30-19(g)(1) & 30-19(g)(2)— for exceptions to the Parking requirements to locate a parking stall less than five ft. from the street, and for waivers to the minimum dimensions of parking stalls;***
- > ***Section 30-23 — for approval of site plan; and***
- > ***Section 30-24 — for a special permit approving proposed project and related waivers.***

As noted earlier, the applicant will also need to seek Variances from the Zoning Board of Appeals for the proposed addition in the rear setback and to exceed the maximum building lot coverage.

An electronic copy of plans must be submitted to the Planning Department at the time of filing for a special permit.

Plans and Materials Reviewed:

- Area Plan of Land at 9 Parkview Avenue, dated August 27, 2007, stamped and signed by Wade T. Putnam, Professional Land Surveyor.
- Plan of Land at 9 Parkview Avenue, dated March 25, 2008, stamped and signed by Wade T. Putnam, Professional Land Surveyor.
- Set of architectural plans titled 9 Parkview Avenue, prepared by Henrich Thompson Studios, Cambridge MA, stamped and signed by Denise H. Thompson Registered Architect, dated 5-26-06, including:
 - > Ground Floor Existing

- > Second Floor Existing
 - > Front Elevation Existing
 - > Rear Elevation Existing
 - > Drive Side Elevation Existing
 - > Side Elevation Existing
 - > Ground Floor Alt. –M, dated 09-07-06
 - > Second Floor Alt. -M, dated 09-07-06
 - > Front Elevation Alt. –M, dated 09-07-06
 - > Side Elevation Alt. –M, dated 09-07-06
 - > Rear Elevation Alt. – M, dated 09-07-06
 - > Drive Side Elevation Alt. – M, dated 09-07-06.
- Letter from applicant dated April 30, 2008.
- Demolition Review Decision, Newton Historical Commission dated January 11, 2007.
- Dimensional Chart for 9 Parkview Ave. submitted by Applicant, not dated.

Land Use Map

9 Parkview Ave
Newtonville

CIO Parkview Ave
House Numbers
Ba'Ning Footprints
%vic Family He sklerds1
try Multifamily Residential
IN Commercial
RE Industrial
Mixed Use
Vacant Land
God Coin.
Bei Own ER..
Private Educational
Nampa* Orgsalizations
Public Housing
Tax Exempt
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OProperty Boundaries
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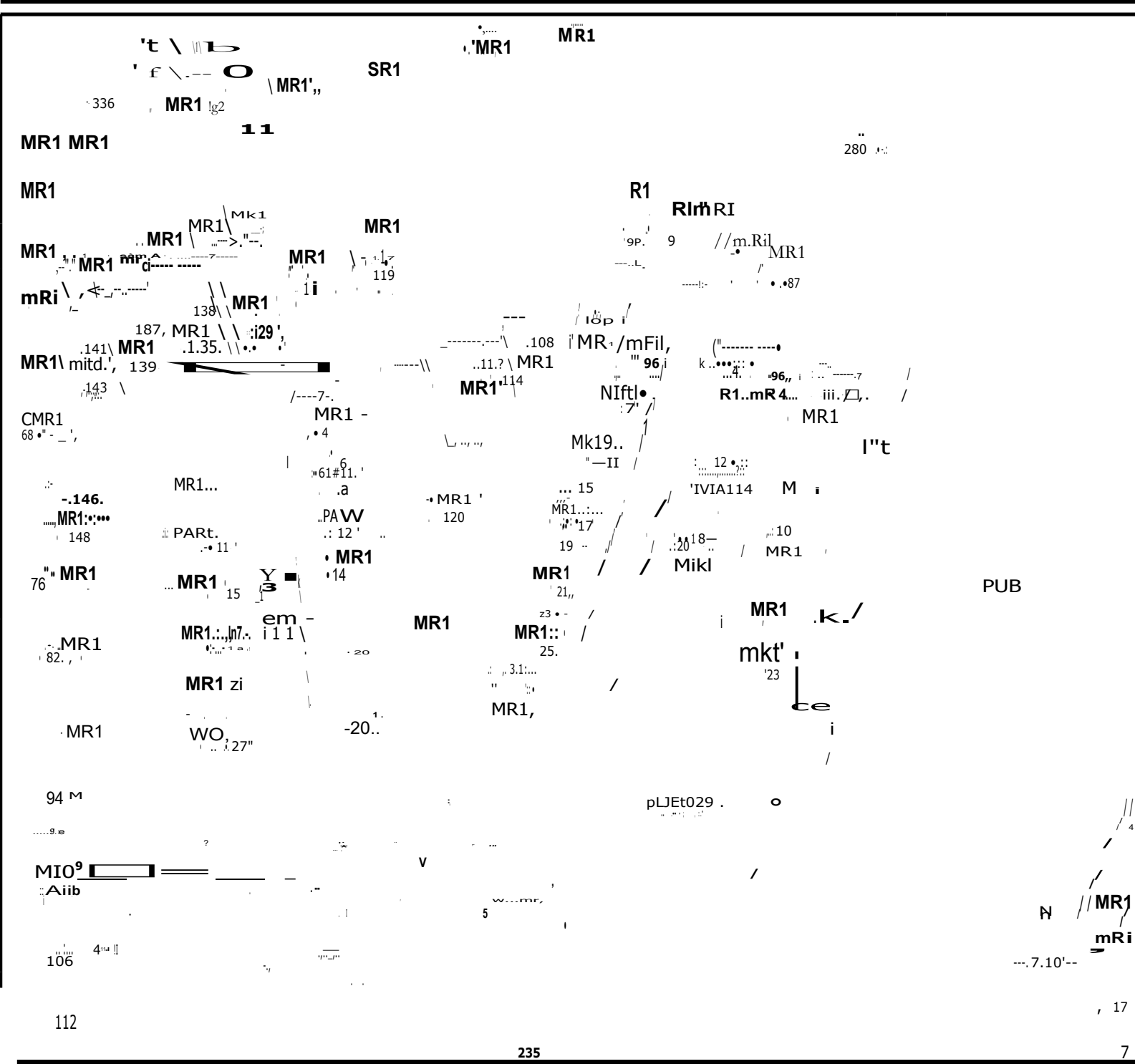
NEWTON
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The information on this map is from t
Geographic Information System (GIS).
Newton cannot guarantee the accura
information. Each user of this map is
for determining its suitability for his or
purpose. City departments will not
approve applications based solely on

0 50 100
Feet

MAP DATE: June 02, 2C

ATTACHMENT B



Zoning Map

9 Parkview Ave
Newtonville

Legend

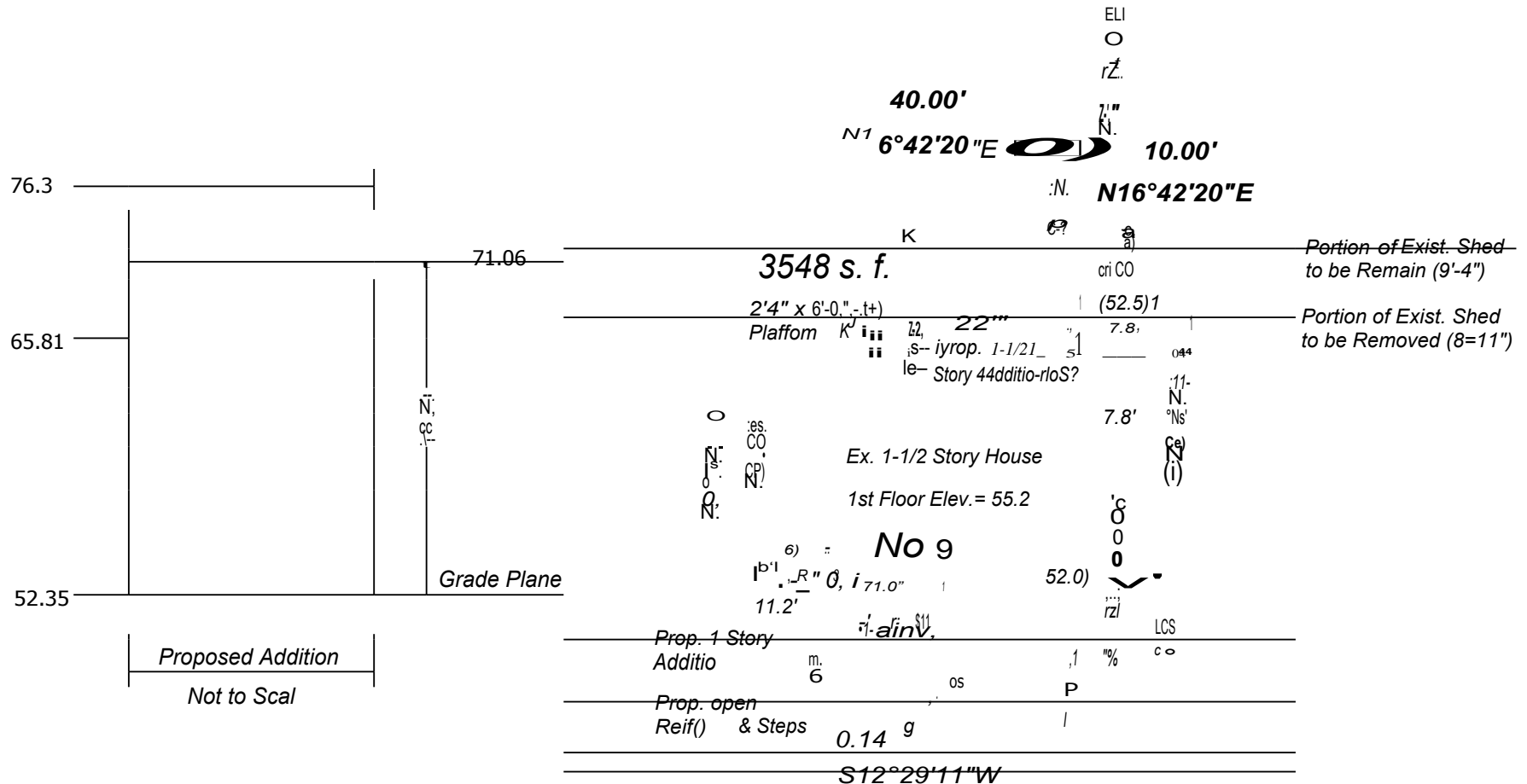
MI 9 Parkview Ave

- Building Footprints
- Single Res. 1
- Single Res. 2
- Single Res. 3
- Business 1
- Business 2
- Multi-Res. 1
- Multi-Res. 2
- Multi-Res. 3
- Multi-Res. 4
- Mixed Use 1
- Mixed Use 2
- OS/Rec.
- Public Use



The information on this map is from the Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of the information. Each user of this map is responsible for determining its suitability for his or her purpose. City departments will not approve applications based solely on this map.

0 50 100
Feet



Grade Plane Calculation

52.0
52.5
52.4
52.5

$$209.4 \div 4 = 52.35$$

Parkvie w (Public - 40' wide) Avenue

TRAX DENT